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14 Attorneys for Plaintiffs

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 IN RE BARD IVC FILTERS
14 PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

15 Barry Phares, an individual,
16
17 Plaintiff,

Civil Action No.: 2:16-cv-02210-PHX-DGC

18 v.

**NOTICE OF FILING AMENDED
COMPLAINT**

19 C.R. Bard, Inc., a corporation, and Bard
20 Peripheral Vascular, Inc., an Arizona
corporation,

21 Defendants.
22

23 Pursuant to Local Rule of Civil Procedure 15.1(b), Plaintiff Barry Phares
24 respectfully submits this Notice of Filing First Amended Complaint. Attached as Exhibit
25 A is a copy of the amended complaint that indicates in what respect it differs from the
26
27
28

1 original complaint. The Defendants do not oppose Plaintiff's filing of this Notice or the
2 First Amended Complaint.

3
4 RESPECTFULLY SUBMITTED this 13th day of July, 2016.

5
6 LOWE LAW GROUP

7
8 By /s/ Jonathan Peck

9 Nathan Buttars

10 Jonathan Peck

6028 S. Ridgeline Drive, Suite 200

11 Ogden, UT 84405

Attorneys for Plaintiff(s)

12
13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on this 13th day of July, 2016, I electronically transmitted the
15 attached document to the Clerk's Office using the CM/ECF System for filing and
16 transmittal of a Notice of Electronic Filing.
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18
19 /s/ Jonathan Peck

20 Jonathan Peck

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EXHIBIT A

Nathan Butters * (UT-13659)
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

**FIRST AMENDED MASTER SHORT
FORM COMPLAINT FOR DAMAGES
FOR INDIVIDUAL CLAIMS**

Plaintiff(s) named below, for their Complaint against Defendants named below,
incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).

Plaintiff(s) further show the Court as follows:

1. Plaintiff:

Barry Phares

2. Spousal Plaintiff or other party making loss of consortium claim:

N/A

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
conservator):

N/A

1 4. Plaintiff's state(s) [if more than one Plaintiff] of residence at the time of
2 implant:

3 Washington

4 5. Plaintiff's state(s) [if more than one Plaintiff] of residence at the time of
5 injury:

6 Washington

7 6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

8 Washington

9 7. District Court and Division in which venue would be proper absent direct
10 filing:

11 Western District of Washington

12 8. Defendants (check Defendants against whom Complaint is made):

13 ☒ C.R. Bard Inc.

14 ☒ Bard Peripheral Vascular, Inc.

15 9. Basis of Jurisdiction:

16 ☒ Diversity of Citizenship

17 ☐ Other: _____

18 a. Other allegations of jurisdiction and venue not expressed in Master
19 Complaint:

20 _____
21 _____
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23 _____
24 _____
25 _____
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27 _____
28 _____

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

- ☐ Recovery[®] Vena Cava Filter
☒ G2[®] Vena Cava Filter
☐ G2[®] Express Vena Cava Filter
☐ G2[®] X Vena Cava Filter
☐ Eclipse[®] Vena Cava Filter
☐ Meridian[®] Vena Cava Filter
☐ Denali[®] Vena Cava Filter
☐ Other: _____

11. Date of Implantation as to each product:

September 17, 2006

12. Counts in the Master Complaint brought by Plaintiff(s):

- X Count I: Strict Products Liability – Manufacturing Defect
X Count II: Strict Products Liability – Information Defect (Failure to Warn)
X Count III: Strict Products Liability – Design Defect
X Count IV: Negligence - Design
X Count V: Negligence - Manufacture
X Count VI: Negligence – Failure to Recall/Retrofit
X Count VII: Negligence – Failure to Warn

- 1 X Count VIII: Negligent Misrepresentation
- 2 X Count IX: Negligence *Per Se*
- 3 X Count X: Breach of Express Warranty
- 4 X Count XI: Breach of Implied Warranty
- 5 X Count XII: Fraudulent Misrepresentation
- 6 X Count XIII: Fraudulent Concealment
- 7 X Count XIV: Violations of Applicable ~~Louisiana~~ **Washington** Law
- 8 Prohibiting Consumer Fraud and Unfair and Deceptive Trade
- 9 Practices
- 10 ☐ Count XV: Loss of Consortium
- 11 ☐ Count XVI: Wrongful Death
- 12 ☐ Count XVII: Survival
- 13 X Punitive Damages
- 14 ☐ Other(s):_____ (please state the facts supporting
- 15 this Count in the space immediately below)
- 16 _____
- 17 _____
- 18 _____
- 19 _____
- 20 _____

21

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24

25

26 13. Jury Trial demanded for all issues so triable?

27 X Yes

28

– No

RESPECTFULLY SUBMITTED this 26th 13th day of May July, 2016.

LOWE LAW GROUP

By: /s/ Jonathan Peck
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Certificate of Service

I hereby certify that on this 13th day of July, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Jonathan Peck